

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 3/17/98

Reference No.: CB-11-1998

Proposer: Board of Appeals

Draft No.: 2

Sponsors: Del Giudice

Item Title: An Ordinance authorizing the Planning Board to grant
variances in conjunction with certain applications

Drafter: Jackie Brown
PZ&ED Committee Director

Resource Personnel: Anne Carter
Board of Appeals

LEGISLATIVE HISTORY:

Date Presented: 1/20/98

Executive Action: __/__/__ __

Committee Referral: 1/20/98 PZED

Effective Date: 3/17/98

Committee Action: 2/11/98 FAV

Date Introduced: 2/17/98

Pub. Hearing Date: 3/17/98 2:00 PM

Council Action: 3/17/98 ENACTED

Council Votes: RVR:A, DB:A, SD:A, JE:A, IG:A, TH:A, WM:A, AS:A, MW:A

Pass/Fail: P

Remarks: _____

3/17/98: Amended on the floor; rules suspended to change effective date

PLANNING, ZONING & ECON. DEV. COM. REPORT

DATE: 2/11/98

Committee Vote: Favorable, 3-0 (In favor: Council Members Bailey, Del Giudice and Maloney).

Staff gave an overview of the legislation and indicated that Council Member Russell is sponsoring the legislation as Chairman by request of the Board of Appeals. As indicated in a memorandum to the Chairman, Board of Appeals Chairman Albert Scott states, "As staff has recently experienced a recurring problem in several cases involving variances, it was brought to my attention that there is a 'crack' in the zoning case 'pipeline.'"

The Zoning Ordinance provides for mandatory review by the District Council of special exception cases which contain variance requests. This is not so for Planning Board cases in which the resolution recommends that variances be granted. If the District Council elects not to hear a Planning Board case, and a variance is not granted, the Planning Board action cannot move forward. Since the Board of Appeals does not have the authority to hear variance requests which involve zoning matters pending before the Council (pending finality), the variance request would "die" after 30 days. If the District Council takes no action and the variance request "dies", an applicant would have to pay an additional filing fee to the Board of Appeals, which the Board has no authority to waive, and provide additional copies of plans with the application for a variance. In some instances, involving certain sections of the Zoning Ordinance, the Board has no authority whatsoever to hear the variance request, and only Council may consider the variance. Additionally, during the Council's 30-day pending finality period and the time needed for an application to go through the application/hearing process with the Board of Appeals, previous Planning Board approvals expire and the applicant may have to start the entire process again.

Staff explained to the Committee that CB-11-1998 authorizes the Planning Board to grant variances in conjunction with applications for which it has decision making authority. This authorization to the Planning Board does not take away any of the District Council's authority in this area. It just allows the Planning Board to grant variances which will save time and filing fees for applicants in certain situations.

The Planning Board and the Executive Branch support the legislation. The Office of Law and the Legislative Officer find the bill to be in proper legislative form. The Office of Audits and Investigations has determined that there should be no negative fiscal impact on the County if the bill is enacted.

Council Member Del Giudice suggested that the Council may consider looking at which situations are treated as variances and which of these could be treated as departures.

The Committee voted a favorable recommendation on the legislation.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

Currently, the Zoning Ordinance provides for mandatory review by the District Council of special exception applications which contain variances. This is not so for applications reviewed and approved by the Planning Board in which the resolution recommends that variances be granted. If the Council elects not to hear a certain application or it is not appealed to the Council by a Person of Record, and a variance is not granted, the Planning Board action cannot go forward. This legislation authorizes the Planning Board to grant variances required in conjunction with applications for which it has decision making authority.

CODE INDEX TOPICS: